

NATIVE AMERICAN HERITAGE COMMISSION

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August 30, 2010

Mr. Cy R. Oggins

California State Lands Commission

100 Howe Avenue, Suite 100-South
Sacramento, CA 95825

Re: SCH#2006031091; CEQA Notice; draft Environmental Impact Report (DEIR) for the Chevron El Segundo Marine Terminal Lease Renewal located approximately one and one-half miles off-shore in a nine-acre area near El Segundo Beach; Los Angeles County, California.

Dear Mr. Oggins:

The Native American Heritage Commission (NAHC) is the state 'trustee agency' pursuant to Public Resources Code §21070 for the protection and preservation of California's Native American Cultural Resources. (Also see *Environmental Protection Information Center v. Johnson* (1985) 170 Cal App. 3rd 604). The California Environmental Quality Act (CEQA - CA Public Resources Code §21000-21177, amendment effective 3/18/2010) requires that any project that causes a substantial adverse change in the significance of an historical resource, that includes archaeological resources, is a 'significant effect' requiring the preparation of an Environmental Impact Report (EIR) per the California Code of Regulations §15064.5(b)(c)(f) CEQA guidelines). Section 15382 of the CEQA Guidelines defines a significant impact on the environment as "a substantial, or potentially substantial, adverse change in any of physical conditions within an area affected by the proposed project, including ... objects of historic or aesthetic significance. The lead agency is required to assess whether the project will have an adverse impact on these resources within the 'area of potential effect (APE)', and if so, to mitigate that effect. State law also addresses Native American Religious Expression in Public Resources Code §5097.9.

The Native American Heritage Commission did perform a Sacred Lands File (SLF) search in the NAHC SLF Inventory, established by the Legislature pursuant to Public Resources Code §5097.94(a) and Native American Cultural Resources **were not identified** within one-half mile of the nine-acre APE identified for the project. However, Native American cultural resources are known to exist off the Southern California coast, particularly off the coastal area of from Santa Barbara County to San Diego County. Villages have been identified off the coast of Ventura and San Diego counties. In addition to the Native American resources we suggest you might contact Dr. Patricia Master, Marine Archaeologist at UC San Diego. Early consultation with Native American tribes in your area is the best way to avoid unanticipated discoveries once a project is underway. Enclosed are the names of the culturally affiliated tribes and interested Native American individuals that the NAHC recommends as 'consulting parties,' for this purpose, that may have knowledge of the religious and cultural significance of the historic properties in the project area (e.g. APE). We recommend that you contact persons on the attached list of Native American contacts. A Native American Tribe or Tribal Elder may be the only source of information about a cultural resource. Also, the NAHC recommends that a Native American Monitor or Native American culturally knowledgeable person be employed

whenever a professional archaeologist is employed during the 'Initial Study' and in other phases of the environmental planning processes.

Furthermore the NAHC recommends that you contact the California Historic Resources Information System (CHRIS) at the Office of Historic Preservation (OHP) Coordinator's office (at (916) 653-7278, for referral to the nearest OHP Information Center of which there are 10.

Consultation with tribes and interested Native American tribes and interested Native American individuals, as consulting parties, on the NAHC list, should be conducted in compliance with the requirements of federal NEPA (42 U.S.C. 4321-43351) and Section 106 and 4(f) of federal NHPA (16 U.S.C. 470 [f] *et seq.*), 36 CFR Part 800.3, the President's Council on Environmental Quality (CSQ; 42 U.S.C. 4371 *et seq.*) and NAGPRA (25 U.S.C. 3001-3013), as appropriate. The 1992 *Secretary of the Interior's Standards for the Treatment of Historic Properties* were revised so that they could be applied to all historic resource types included in the National Register of Historic Places and including *cultural landscapes*. Consultation with Native American communities is also a matter of environmental justice as defined by California Government Code §65040.12(e).

Lead agencies should consider avoidance, as defined in Section 15370 of the California Environmental Quality Act (CEQA) when significant cultural resources could be affected by a project. Also, Public Resources Code Section 5097.98 and Health & Safety Code Section 7050.5 provide for provisions for accidentally discovered archeological resources during construction and mandate the processes to be followed in the event of an accidental discovery of any human remains in a project location other than a 'dedicated cemetery. Discussion of these should be included in your environmental documents, as appropriate.

The authority for the SLF record search of the NAHC Sacred Lands Inventory, established by the California Legislature, is California Public Resources Code §5097.94(a) and is exempt from the CA Public Records Act (c.f. California Government Code §6254.10). The results of the SLF search are confidential. However, Native Americans on the attached contact list are not prohibited from and may wish to reveal the nature of identified cultural resources/historic properties. Confidentiality of 'historic properties of religious and cultural significance' may also be protected under Section 304 of the NHPA or at the Secretary of the Interior's discretion if not eligible for listing on the National Register of Historic Places. The Secretary may also be advised by the federal Indian Religious Freedom Act (cf. 42 U.S.C. 1996) in issuing a decision on whether or not to disclose items of religious and/or cultural significance identified in or near the APE and possibly threatened by proposed project activity.

CEQA Guidelines, Section 15064.5(d) requires the lead agency to work with the Native Americans identified by this Commission if the initial Study identifies the presence or likely presence of Native American human remains within the APE. CEQA Guidelines provide for agreements with Native American, identified by the NAHC, to assure the appropriate and dignified treatment of Native American human remains and any associated grave liens. Although tribal consultation under the California Environmental Quality Act (CEQA; CA Public Resources Code Section 21000 – 21177) is 'advisory' rather than mandated, the NAHC does request 'lead agencies' to work with tribes and interested Native American individuals as 'consulting parties,' on the list provided by the NAHC in order that cultural resources will be protected. However, the 2006 SB 1059 the state enabling legislation to the Federal Energy Policy Act of 2005, does mandate tribal consultation for the 'electric transmission corridors. This

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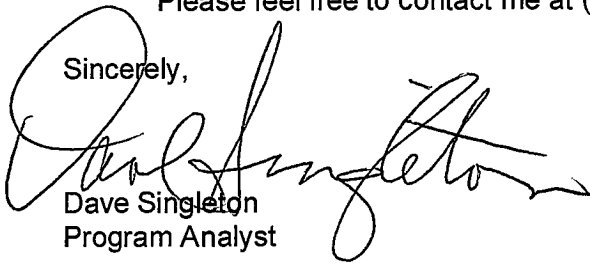
is codified in the California Public Resources Code, Chapter 4.3, and §25330 to Division 15, requires consultation with California Native American tribes, and identifies both federally recognized and non-federally recognized on a list maintained by the NAHC

Health and Safety Code §7050.5, Public Resources Code §5097.98 and Sec. §15064.5 (d) of the California Code of Regulations (CEQA Guidelines) mandate procedures to be followed, including that construction or excavation be stopped in the event of an accidental discovery of any human remains in a location other than a dedicated cemetery until the county coroner or medical examiner can determine whether the remains are those of a Native American. . Note that §7052 of the Health & Safety Code states that disturbance of Native American cemeteries is a felony.

Again, Lead agencies should consider avoidance, as defined in §15370 of the California Code of Regulations (CEQA Guidelines), when significant cultural resources are discovered during the course of project planning and implementation.

Please feel free to contact me at (916) 653-6251 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Singleton", written over the printed name.

Dave Singleton
Program Analyst

Attachment: List of Culturally Affiliated Native American Contacts

Cc: State Clearinghouse

Native American Contacts
Los Angeles County
August 30, 2010

Charles Cooke
32835 Santiago Road
Acton , CA 93510
suscol@intox.net

(661) 733-1812 - cell
suscol@intox.net

Chumash
Fernandeno
Tataviam
Kitanemuk

LA City/County Native American Indian Comm
Ron Andrade, Director
3175 West 6th Street, Rm.
Los Angeles , CA 90020
randrade@css.lacounty.gov
(213) 351-5324
(213) 386-3995 FAX

Owl Clan
Qun-tan Shup
48825 Sapaque Road
Bradley , CA 93426
mupaka@gmail.com
(805) 472-9536
(805) 835-2382 - CELL

Chumash

Ti'At Society
Cindi Alvitre
6515 E. Seaside Walk, #C
Long Beach , CA 90803
calvitre@yahoo.com
(714) 504-2468 Cell

Gabrielino

Tongva Ancestral Territorial Tribal Nation
John Tommy Rosas, Tribal Admin.
Gabrielino Tongva
tattnlaw@gmail.com
310-570-6567

Gabrieleno/Tongva San Gabriel Band of Mission
Anthony Morales, Chairperson
PO Box 693
San Gabriel , CA 91778
GTTribalcouncil@aol.com
(626) 286-1632
(626) 286-1758 - Home
(626) 286-1262 -FAX

Gabrielino Tongva

Randy Guzman - Folkes
655 Los Angeles Avenue, Unit E
Moorpark , CA 93021
ndnRandy@yahoo.com
(805) 905-1675 - cell

Chumash
Fernandeño
Tataviam
Shoshone Paiute
Yaqui

Gabrielino Tongva Nation
Sam Dunlap, Chairperson
P.O. Box 86908
Los Angeles , CA 90086
samdunlap@earthlink.net
(909) 262-9351 - cell

Gabrielino Tongva

This list is current only as of the date of this document.

Distribution of this list does not relieve any person of statutory responsibility as defined in Section 7050.5 of the Health and Safety Code, Section 5097.94 of the Public Resources Code and Section 5097.98 of the Public Resources Code. Also, federal National Environmental Policy Act (NEPA), National Historic Preservation Act, Section 106 and federal NAGPRA. And 36 CFR Part 800.3.

This list is only applicable for contacting local Native Americans for consultation purposes with regard to cultural resources impact by the proposed SCH#2006031091; CEQA Notice; CSLC EIR No. 735; draft Environmental Impact Report (DEIR) for the Chevron El Segundo Marine Terminal Lease Renewal Project; located on State tide and submerged land in the Santa Monica Bay offshore of the City of El Segundo; Los Angeles County, California;

Native American Contacts
Los Angeles County
August 30, 2010

Frank Arredondo
PO Box 161
Santa Barbara Ca 93102
ksen_sku_mu@yahoo.com
805-617-6884
ksen_sku_mu@yahoo.com

Chumash

Santa Ynez Tribal Elders Council
Freddie Romero, Cultural Preservation ConsInt
P.O. Box 365
Santa Ynez , CA 93460
805-688-7997, Ext 37
freddyromero1959@yahoo.com

Chumash

Gabrielino-Tongva Tribe
Bernie Acuna
1875 Century Pk East #1500 Gabrielino
Los Angeles , CA 90067
(310) 428-7720 - cell
(310) 587-2281

Shoshoneon Gabrieleno Band of Mission Indians
Andy Salas, Chairperson
PO Box 393
Covina , CA 91723
gabrielenoindians@yahoo.
626-926-4131
213) 688-0181 - FAX

Gabrieleno

Gabrielino-Tongva Tribe
Linda Candelaria, Chairwoman
1875 Century Park East, Suite 1500
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310-428-5767- cell
(310) 587-2281

Gabrielino

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